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DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

NOV 22 2010

Uniform Issue List 408.03-00

XXXXX
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SE: T: EP: RA: TY

Legend:

Taxpayer A = xxxxx

Individual B = xxxxx

IRA X = xxxxx

Bank D = xxxxx

Account Z = xxxxx

Amount N = xxxxx

Date 1 = xxxxx

Date 2 = xxxxx

Dear xxxxx:

This is in response to a letter dated March 1, 2010, as supplemented by correspondence dated July 6, 2010, submitted on your behalf by your authorized representative, requesting a waiver of the 60-day rollover requirement contained in section 408(d)(3) of the Internal Revenue Code ("Code").

The following facts and representations in support of the above request have been submitted under penalty of perjury.

Taxpayer A, age . represents that on Date 2 she received a distribution of Amount N from IRA X, the Individual Retirement Arrangement of her deceased spouse, Individual B. Taxpayer A asserts that her failure to accomplish a rollover of Amount N into an IRA within the 60-day period prescribed by section 408(d)(3)

of the Code was due to an error by Bank D. Taxpayer A further asserts that Amount N has not been used for any other purpose.

Individual B maintained IRA X at Bank D. On Date 1 Individual B died. Documentation submitted indicates that Taxpayer A was the sole designated beneficiary of IRA X. Individual B had handled the couple's financial affairs during the marriage and after Individual B became incapacitated, their sons assisted in overseeing the couple's financial matters because Taxpayer A lacked experience in financial matters and she communicates primarily in a language other than English.

On Date 2, Taxpayer A went, unaccompanied, to Bank D to present it with a copy of Individual B's death certificate. Bank D and its predecessors, located within the small community in which Taxpayer A resides, had provided the couple with banking services for several decades. Taxpayer A provided Bank D with notification of Individual B's recent death, and she relied upon the expertise of professionals employed by Bank D, to implement changes, necessary to be made on account of Individual B's death, for accounts, including IRA X, which the couple held jointly or separately at Bank D.

On Date 2, Bank D completed an IRA Election of Payment by Beneficiary Form (Election Form) and presented it to Taxpayer A for signature. The Election Form indicates an election to receive a total distribution and to treat the distribution as Taxpayer A's own IRA.

Taxpayer A signed the Election Form and Bank D liquidated IRA X by issuing a cashier's check made payable to Taxpayer A for Amount N. However, Taxpayer A did not receive the check in hand as Bank D immediately deposited Amount N into Account Z, a non-IRA Certificate of Deposit.

Based on the above facts and representations, you request a ruling that the Internal Revenue Service waive the 60-day rollover requirement contained in section 408(d)(3) of the Code with respect to the distribution of Amount N from IRA X.

Section 408(d)(1) of the Code provides that, except as otherwise provided in section 408(d), any amount paid or distributed out of an IRA shall be included in gross income by the payee or distributee, as the case may be, in the manner provided under section 72 of the Code.

Section 408(d)(3) of the Code defines, and provides the rules applicable to IRA rollovers.

Section 408(d)(3)(A) of the Code provides that section 408(d)(1) of the Code does not apply to any amount paid or distributed out of an IRA to the individual for whose benefit the IRA is maintained if--

- (i) the entire amount received (including money and any other

property) is paid into an IRA for the benefit of such individual not later than the 60th day after the day on which the individual receives the payment or distribution; or

- (ii) the entire amount received (including money and any other property) is paid into an eligible retirement plan (other than an IRA) for the benefit of such individual not later than the 60th day after the date on which the payment or distribution is received, except that the maximum amount which may be paid into such plan may not exceed the portion of the amount received which is includible in gross income (determined without regard to section 408(d)(3)).

Section 408(d)(3)(B) of the Code provides that section 408(d)(3) does not apply to any amount described in section 408(d)(3)(A)(i) received by an individual from an IRA if, at any time during the 1-year period ending on the day of such receipt, such individual received any other amount described in section 408(d)(3)(A)(i) from an IRA which was not includible in gross income because of the application of section 408(d)(3).

Section 408(d)(3)(D) of the Code provides a similar 60-day rollover period for partial rollovers.

Section 408(d)(3)(E) of the Code provides that the rollover provisions of section 408(d) do not apply to any amount required to be distributed under section 408(a)(6).

Section 408(d)(3)(I) of the Code provides that the Secretary may waive the 60-day requirement under sections 408(d)(3)(A) and 408(d)(3)(D) where the failure to waive such requirement would be against equity or good conscience, including casualty, disaster, or other events beyond the reasonable control of the individual subject to such requirement. Only distributions that occurred after December 31, 2001, are eligible for the waiver under section 408(d)(3)(I) of the Code.

Revenue Procedure 2003-16, 2003-4 I.R.B. 359, provides that in determining whether to grant a waiver of the 60-day rollover requirement pursuant to section 408(d)(3)(I), the Service will consider all relevant facts and circumstances, including: (1) errors committed by a financial institution; (2) inability to complete a rollover due to death, disability, hospitalization, incarceration, restrictions imposed by a foreign country or postal error; (3) the use of the amount distributed (for example, in the case of payment by check, whether the check was cashed); and (4) the time elapsed since the distribution occurred.

The information presented and documentation submitted by Taxpayer A is consistent with her assertion that her failure to accomplish a timely rollover of Amount N distributed from IRA X was due to an error by Bank D.

xxxxx

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Therefore, pursuant to section 408(d)(3)(I) of the Code, the Service hereby waives the 60-day rollover requirement with respect to the distribution of Amount N from IRA X. Taxpayer A is granted a period of 60 days from the issuance of this ruling letter to contribute Amount N into a rollover IRA in her name. Provided all other requirements of section 408(d)(3) of the Code, except the 60-day requirement, are met with respect to such contribution, Amount N will be considered a rollover contribution within the meaning of section 408(d)(3) of the Code.

No opinion is expressed as to the tax treatment of the transaction described herein under the provisions of any other section of either the Code or regulations which may be applicable thereto.

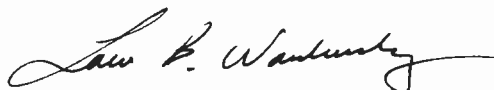
This ruling does not authorize the rollover of amounts that are required to be distributed by section 401(a)(9) of the Code.

This ruling is directed only to the taxpayer who requested it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, copies of this letter ruling are being sent to your authorized representatives.

If you wish to inquire about this ruling, please contact xxxxx, I.D. # xxxxx, by telephone at xxxxx. Please address all correspondence to SE:T:EP:RA:T4.

Sincerely yours,



Laura B. Warshawsky, Manager
Employee Plans Technical Group 4

Enclosures:

Deleted copy of ruling letter
Notice of Intention to Disclose

cc: xxxxx

xxxxx

xxxxx

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